

Thematic Report: National Anti-TIP Legal and Institutional Frameworks¹



I. Introduction

Overview

It is not feasible to achieve a truly holistic or comprehensive response to TIP without the existence of a clear, stable, fair, and human rights-based legal and policy framework that is specifically designed to address every facet of trafficking. Such a framework must be strong enough to deter TIP by preventing and combating it, disrupting trafficking operations by prosecuting and punishing its perpetrators, and protecting victims with all due regard to their needs and human rights. Finally, it must also promote partnerships laterally (between government institutions) and vertically (between the government and non-government actors, including civil society and business), at local, national, regional, and international levels.

Most countries in this Report have passed specific anti-TIP legislation; others prohibit and sanction TIP under the terms of their criminal laws or their child and/or gender welfare laws. In most cases, such laws are generally compliant with the international standards set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; however, in one or two cases the legal framework fails to meet this standard. Where this is the case, it is specifically noted in the Report. Similarly, most countries in this Report have put in place policies or action plans that are intended to effectuate anti-TIP laws.

This Report identifies a number of institutions in the relevant countries that have been charged with monitoring and implementing national anti-TIP laws and policies, and details their roles in combating TIP.

This Report also addresses the extent to which the countries have ratified or acceded to a number of international instruments that address TIP and/or migrant smuggling (*see* Part II (Anti-TIP Legal Framework, *International Agreements*). The Table in this section addresses only the ratification of or accession to the UN Convention on Transnational Organized Crime and its two Protocols, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of the Child, and a number of International Labour Organization conventions that bear specifically upon labor and forced labor. As such, it does not constitute a comprehensive list of all the international instruments that bear upon TIP and migrant smuggling; nor does it note whether the countries have signed but failed to ratify the instruments.

The statements and analysis contained herein are the work of the American Bar Association's Rule of Law Initiative (ABA ROLI). They address, by and large, the *de jure* legal framework in Eritrea,

¹ The statements and analysis contained within this report are the work of the American Bar Association Rule of Law Initiative, which is solely responsible for its content. The views expressed herein should not be construed as representing the policy of the ABA. This report was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State.

Ethiopia, Ghana, Lesotho, Malawi, Namibia, Uganda, and Zambia. This Report is based primarily on desk review of freely and publicly-available laws and reports, supplemented in portions by the knowledge of ABA ROLI's local affiliates. Please note that the materials discussed in this Report capture only the legislative and policy framework of the relevant countries; *de facto* implementation of these laws may be at issue in some, if not all, of these states.

II. Anti-TIP Legal Framework

Domestic Statutory Authority

Eritrea

Eritrea does have statutory protections against TIP and forced labor, although it does not have dedicated anti-trafficking, anti-migrant smuggling, or anti-forced labor laws.

The Constitution of 1997 (Ratified Constitution) forbids slavery and forced labor to the extent that it is “not authorized by law”.²

Furthermore, the Penal Code criminalizes a number of TIP-related offenses. The selling, pledging, or otherwise enslaving, even in a “disguised form”, of another human being, as well as the knowing transportation or abetting the knowing transportation of an enslaved person, is punishable generally by seven to 10 years’ imprisonment.³ Slavery becomes an aggravated offense if the victim is under the age of 18, punishable by 13 to 16 years in prison.⁴ Aiding or abetting the offense is punishable by 3-5 years imprisonment.⁵

The Penal Code incorporates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations (U.N.) Convention against Transnational Organized Crime.⁶ However, the Penal Code provisions related to the trafficking of women, infants, and young persons only punish trafficking to the extent that it is conducted for sexual purposes; the law states only that traffic in such individuals “to engage in prostitution or the production of pornography or for pornographic performances, even with their consent; or [to] keep such a [*sic*] persons in a disorderly house or to let them out to prostitution”⁷ is a crime. Nonetheless, it is punishable by between 5 and 7 years’ imprisonment. The crime of aggravated trafficking under this Penal Code provision occurs when trafficking is engaged in as a profession, when the perpetrator takes unfair advantage or misuses their authority over the victim, or the victim is “driven to suicide by shame, distress or despair.”⁸ In such cases, the penalties increase to 7-10 years’ imprisonment.

The Labor Proclamation criminalizes any service performed involuntarily by coercion of another person, including that of children, and any work performed involuntarily solely due to the influence of a person holding public office or traditional status of chieftaincy.⁹ However, under the terms of

² Constitution of Eritrea (1997), art. 16, *available at* <http://confinder.richmond.edu/admin/docs/Eritrea1997English.pdf> (last visited July 22, 2017) [hereinafter ERITREA CONST.].

³ Penal Code of the State of Eritrea, art. 297 (Eritrea), *available at* <http://www.refworld.org/pdfid/55a51ccc4.pdf> (last visited July 22, 2017) [hereinafter Penal Code (Eritrea)].

⁴ *Id.*

⁵ *Id.*

⁶ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319; Penal Code (Eritrea), *supra* note 3, at art. 315.

⁷ Penal Code (Eritrea), *supra* note 3, at art. 315.

⁸ *Id.* at arts. 316(d)-(f).

⁹ Labour Proclamation No. 118/2001, art. 3(17) (Eritrea), *available at* <http://www.ilo.org/dyn/travail/docs/493/The%20Labour%20Proclamation%20of%20Eritrea%20No%201>

this provision, compulsory national service, forced labor as punishment for a crime, communal services, and services rendered during emergencies may not be regarded as forced labor.¹⁰

By operation of the general laws of preclusion, TIP victims appear to have a right to take legal action against traffickers and claim compensation.¹¹

Ethiopia

The Ethiopian Constitution prohibits trafficking in persons, slavery, and forced labor, and states that “[n]o one shall be held in slavery or servitude. Trafficking in human beings for whatever purpose is prohibited.”¹²

Under the Proclamation to Provide for the Prevention and Suppression of Trafficking in Person[s] and Smuggling of Migrants (the TIP Proclamation),¹³ migrant smuggling is defined as “acts of immigrating or emigrating individuals by land, sea, and air to countries [in] which the person does not have nationality, work, or a permit for residence, with direct or indirect intention to derive material or financial benefit from that person”.¹⁴

TIP is a discrete criminal offense under the TIP Proclamation.¹⁵ There are also ancillary trafficking-related offenses, including assisting and facilitating of trafficking.¹⁶ Furthermore, the law also recognizes certain aggravating circumstances that can impact the applicable punishment. Such circumstances include when trafficking results in severe bodily injury or death of the victim or where the trafficker committed the crime as a member or leader of an organized group, where such crime is committed on a large scale.¹⁷ Although Ethiopia’s TIP Proclamation does not specifically provide for the possibility of a civil suit against the traffickers, a variety of legal theories may apply, including torts and contracts. Furthermore, the court allows for certain civil remedies for TIP victims, including Article 31 of the Proclamation, which provides that such compensation could include set-offs for medical, transports, moral damages, or any other costs or losses occurred.

Ghana

Ghana has established a national TIP legal framework. While the Constitution of Ghana explicitly prohibits slavery and forced labor,¹⁸ the country’s principal anti-TIP legislation is the Human

18%20of%202001.pdf (last visited July 22, 2017).

¹⁰ *Id.*

¹¹ *See, e.g.*, Penal Code (Eritrea), *supra* note 3, at arts. 12(4), 24(3), 78.

¹² A Proclamation to Pronounce the Coming into Effect of the Constitution of the Federal Democratic Republic of Ethiopia, no. 1 of 1995, art. 18(2), *available at* https://www.constituteproject.org/constitution/Ethiopia_1994.pdf?lang=en (last visited July 21, 2017) [hereinafter ETHIOPIA CONST.].

¹³ Proclamation to Provide for the Prevention and Suppression of Trafficking in Person and Smuggling of Migrants, No. 909 of 2015 (Ethiopia), *available at* <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101059/126622/F-402220324/ETH101059.pdf> (last visited July 21, 2017) [hereinafter Proclamation No. 909/2015 (Ethiopia)].

¹⁴ *Id.* at § 5.

¹⁵ *Id.* at § 3.

¹⁶ *Id.* at § 4.

¹⁷ *Id.* at § 6.

¹⁸ GHANA CONST. art. 16, *available at*

Trafficking Act of 2005 (HTA).¹⁹

The HTA was amended in 2009 to align the definition of trafficking with the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (“Palermo Protocol”).²⁰ The HTA prohibits all forms of trafficking, and prescribes penalties ranging from five to 20 years for various trafficking offenses.²¹ Specifically, it criminalizes the trafficking of another person or acting as an intermediary for trafficking of a person, and makes the perpetrator “liable on summary conviction to imprisonment for a term of not less than five years.”²² The HTA also creates offenses for “providing another person for trafficking”,²³ “using a trafficked person”,²⁴ “failing to inform police” of a trafficking offense,²⁵ and publishing reports of human trafficking proceedings which could reveal the identity of a victim without court permission.²⁶ The HTA does not include provisions specific to TIP in supply chains.

Although the HTA establishes sufficiently stringent penalties for trafficking offenses,²⁷ its implementing regulations seem to undermine these penalties.²⁸ For instance, the regulations “specify that where . . . a person with parental responsibilities and rights over a child exploits such child in trafficking in persons, the penalty is a fine *or* five to 10 years’ imprisonment *or both*”.²⁹ Particularly in the Ghanaian context, where parents (or those standing *in loco parentis* to a minor) may be implicated in trafficking offenses,³⁰ fines in lieu of imprisonment do not go far enough in providing a deterrent effect to TIP.³¹

Lesotho

The Constitution of Lesotho provides that no person may be held in slavery or servitude, or

https://www.constituteproject.org/constitution/Ghana_1996.pdf?lang=en (last visited July 17, 2017).

¹⁹ Human Trafficking Act 694 of 2005 (as amended 2009), *available at* <https://s3.amazonaws.com/ndpc-static/CACHES/PUBLICATIONS/2016/04/16/human+trafficking+act.pdf> (last visited July 17, 2017) [hereinafter HTA].

²⁰ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016 181, *available at* <https://www.state.gov/documents/organization/258876.pdf> (last visited July 17, 2017) [hereinafter U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016]; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319 [hereinafter Palermo Protocol].

²¹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20; HTA, *supra* note 19.

²² HTA, *supra* note 19, § 2(1).

²³ *Id.* at § 3 (1).

²⁴ *Id.* at § 4.

²⁵ *Id.* at § 6 (2).

²⁶ *Id.* at § 38 (1).

²⁷ *See supra* note 21 and accompanying text.

²⁸ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 180.

²⁹ Human Trafficking Prohibition (Protection and Reintegration of Trafficked persons) Regulations of 2015, *cited in* U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 181 (emphasis added). Unfortunately, ABA ROLI researchers have not been able to review the text of these regulations in further detail.

³⁰ *See* Manda Sertich & Marijn Heemskerk, *Ghana’s Human Trafficking Act: Successes and Shortcomings in Six Years of Implementation*, 19 Hum. Rts. Brief, iss. 1 at 1, *available at* <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1779&context=hrbrief> (last visited July 17, 2017).

³¹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 182.

required to perform forced labor.³²

The country's primary anti-TIP legislation is the Anti-Trafficking in Persons Act (Anti-TIP Act).³³ The law defines "trafficking" as the:

recruitment, transportation, transfer, harbouring, legal or illegal adoption, sale, supply or receipt of persons within and across the borders of Lesotho -
(a) by means of the use of threat, force or other means of coercion, abduction, kidnapping, fraud or deception, the abuse of power, law or legal process or a position of vulnerability or debt bondage; or
(b) the giving or receiving of payments or benefits to obtain the consent of a person having control over another person, for the purpose of exploitation.³⁴

In imposing a "threat, force, or coercion" requirement upon the crime of trafficking of children, this definition of trafficking is not considered to be consistent with international law.³⁵

A person guilty of trafficking another person under the anti-TIP Act is liable for a fine of M1,000,000 or 25 years in prison.³⁶ Where the victim is a child, the offender is liable for a fine of M2,000,000 or life imprisonment.³⁷

The act also establishes offenses for acts that promote or facilitate trafficking.³⁸ A person guilty of these offenses is liable for the same penalties as if the person had been convicted for the offense of trafficking.³⁹ Furthermore, the act establishes aggravated forms of trafficking, consisting of (a) adoptions undertaken for the purposes of trafficking; (b) crimes undertaken by a syndicate or in large scale; (c) trafficking undertaken by a parent, sibling, guardian or relative of the trafficked person; (d) trafficking undertaken by a public figure or officer; (e) recruitment of the trafficked person to engage in prostitution with members of the military or law enforcement; or (f) the trafficked person's being killed, disabled, mutilated, or afflicted with an STD.⁴⁰ These aggravated offenses are punishable by a fine of M2,000,000, or life in prison.⁴¹

Lesotho has other laws relevant to TIP. The country enacted the Children's Protection and Welfare Act in 2011, which criminalizes child labor, child abduction, child trafficking, child sexual abuse, and

³² Lesotho, Constitution of 1993, art. 9(1)-(2), *available at* https://www.constituteproject.org/constitution/Lesotho_1998.pdf?lang=en (last visited Aug. 2, 2017).

³³ Anti-Trafficking in Persons Act, No. 1 of 2011, *available at* https://www.unodc.org/res/cld/document/anti-trafficking-in-persons-act-2011_html/Lesotho_TIP_Act_2011.pdf (last visited Aug. 3, 2017) [hereinafter Anti-TIP Act].

³⁴ *Id.* at § 2 (emphasis added).

³⁵ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 243.

³⁶ Anti-TIP Act, *supra* note 33, at § 5(1).

³⁷ *Id.* at § 5(2).

³⁸ *Id.* at § 6.

³⁹ *Id.*

⁴⁰ *Id.* at § 7(1).

⁴¹ *Id.* at § 7(2).

harmful cultural practices.⁴² It also provides for the legal placement of children living outside parental care and has provisions on adoption, parentage and guardianship.⁴³ Further, it provides for the removal and rehabilitation of children that are victims of prostitution, sexual violence, labor exploitation, those who are denied education, and those who suffer from substance abuse.⁴⁴

Malawi

The Constitution of Malawi's anti-slavery provisions prohibit TIP.⁴⁵ Under the Constitution, "[n]o person shall be held in slavery or servitude" and "[n]o person shall be required to perform forced labor."⁴⁶

Malawi's Trafficking in Persons Act of 2015 (TIP Act) defines TIP as:

recruiting, transporting, transferring, harboring, receiving or obtaining a person within or beyond the territory of Malawi." These actions under the law constitute TIP if they are done by "transferring, harboring, receiving or obtaining a person, within or beyond the territory of Malawi, through-- (a) threats or use of force or coercion; (b) abduction (c) fraud or deception; (d) abuse or threats of abuse of power or position; (e) abuse or threats of abuse of power of vulnerability; (f) abuse or threats of abuse of the law or legal process; or (g) giving or receiving of payments to obtain consent of a person having control of the trafficked person, for the purpose of exploitation of that person.⁴⁷

The TIP Act applies to a natural or legal person where the offense is: (a) committed wholly or partially within Malawi; (b) committed outside Malawi and the trafficked person is a citizen of Malawi; (c) committed outside Malawi by a citizen of Malawi or a person who is resident in Malawi; or (d) committed outside Malawi with a view to the commission of an offence within Malawi.⁴⁸

Where a person has already been convicted or acquitted of an offense under Malawi's TIP Act in a foreign jurisdiction, that person will not be prosecuted again for the same offense in Malawi, unless the proceedings of the court in the foreign jurisdiction were: (a) for the purpose of shielding the person concerned from criminal proceedings outside in a foreign jurisdiction; or (b) not conducted independently or impartially in accordance with norms of due process recognized by international law, and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.⁴⁹

Trafficked persons in Malawi have some rights under the law. For example, a trafficked person has a right to (a) institute civil proceedings against any person, including public officers with respect to

⁴² Children's Protection and Welfare Act, No. 7 of 2011, Part VI, *available at* <http://jafbase.fr/docAfrique/Lesotho/children%20act%20lesotho.pdf> (last visited Aug. 3, 2017); *Id.* at part IX.

⁴³ *Id.* at Part VII.

⁴⁴ *Id.* at Part X.

⁴⁵ Constitution of Malawi, 1994, art. 27, *available at* https://www.constituteproject.org/constitution/Malawi_1999.pdf (last visited July 23, 2017).

⁴⁶ *Id.*

⁴⁷ Trafficking in Persons Act no. 3 of 2015, art. 1, *available at* <http://www.warnathgroup.com/wp-content/uploads/2015/03/Malawi-2015-TIP-Act.pdf> (last visited July 23, 2017) [hereinafter TIP Act].

⁴⁸ *Id.* at art. 3(1).

⁴⁹ *Id.* at art. 3(2).

TIP offenses or (b) seek compensation, restitution, and recovery in damage from any person or from proceeds of disposal of assets of a person connected with an offense under the TIP Act.⁵⁰

The TIP Act does contain provisions to protect victims, including the protection of a victim's anonymity and confidentiality from the moment of first contact between them and law enforcement.⁵¹ Indeed, the disclosure of information that is "capable of prejudicing the safety or provision of care and protection . . . acquired in the exercise of the powers, performance of the functions or carrying out of the duties conferred upon, assigned to or imposed upon him by or under" the TIP Act is a criminal offense, and the willful or negligent disclosure of certain types of sensitive information is also criminal.⁵² These crimes carry sentences of up to two years or seven years, respectively.⁵³

The TIP Act allows for persons to be informed of their rights under the law. Specifically, there is a requirement that each victim must clearly understand the content and purpose of the initial interview, the intended use of the information, their right not to answer questions, their right to terminate the interview at any time, and their right to impose restrictions on how the information is used.⁵⁴

The TIP Act contains provisions for the psychological, physical and socioeconomic recovery of victims by providing that the government "ensure that trafficked persons are accorded proper treatment and are provided with the necessary care, assistance and protection" and that the government "may, by notice published in the Gazette . . . designate any premise to be a shelter for the care and protection of trafficked persons."⁵⁵

Namibia

The Namibian Constitution prohibits slavery and forced labor.⁵⁶

The government of Namibia has reportedly drafted a National Human Trafficking Bill, but as of the end of the reporting period for the U.S. Department of State's 2016 Trafficking in Persons Report (TIP Report), it was still pending enactment.⁵⁷ ABA ROLI has been unable to locate a publicly-available copy of this bill to review its provisions.

The Prevention of Organized Crime Act (POCA), however, does criminalize TIP. The law defines TIP as:

[T]he recruitment, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another

⁵⁰ *Id.* at art. 40.

⁵¹ *Id.* at arts. 43-47.

⁵² *Id.* at arts. 46-47.

⁵³ *Id.*

⁵⁴ *Id.* at Schedule 1.

⁵⁵ *Id.* at §§44(A) and 45(A).

⁵⁶ Namibia, Constitution of 1990, art. 9, *available at* https://www.constituteproject.org/constitution/Namibia_2010.pdf?lang=en (last visited July 31, 2017).

⁵⁷ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 279.

person, for the purpose of exploitation, and includes any attempt, participation or organising of any of these actions. Exploitation includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.⁵⁸

POCA also criminalizes migrant smuggling, defining it as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person who is not (a) a national or a permanent resident of Namibia; or (b) lawfully resident in Namibia, into Namibia or enabling such a person to remain in Namibia without complying with the law of Namibia.”⁵⁹ However, POCA does not include any distinction between trafficking in children and trafficking in adults.

Participating in, or aiding and abetting TIP carries penalties of up to 50 years’ imprisonment, or a fine not exceeding N\$1 million; participating in, or aiding and abetting migrant smuggling carries penalties of up to 25 years’ imprisonment, or a fine not exceeding N\$500,000.⁶⁰

The Child Care and Protection Act (CCPA) explicitly criminalizes the trafficking of children,⁶¹ defined as follows: “to deliver, recruit, transport, transfer, harbour, adopt, sell, exchange, lease or receive a child within or across the borders of Namibia for the purpose of exploitation.”⁶² Exploitation includes (a) prostitution or any form of sexual exploitation; (b) forced labor or services, prohibited child labor, or other economic exploitation; (c) slavery or practices similar to slavery, including debt bondage or a forced marriage; (d) servitude; (e) the removal of any body parts; or (f) the impregnation of a female against her will for the purpose of selling the child when the child is born.

The CCPA criminalizes various ways in which individuals may aid or abet the trafficking of children, including through the leasing or subleasing of rooms or buildings in order to facilitate trafficking, advertising or distributing information that may facilitate the trafficking of children, financing or organizing the trafficking of children, intentionally or recklessly destroying or tampering with travel documents in order to facilitate or promote the trafficking of children, or intentionally benefitting from the services of a child trafficking victim.⁶³

Persons convicting of the trafficking of a child may be liable for a fine not exceeding N\$1 million, imprisonment not to exceed 20 years, or both.⁶⁴

Unlike POCA, the CCPA provides a number of protections for victims. The law provides that (1) victims have a right to privacy; (2) criminal prosecutions may not be instituted against child victims of trafficking for entering Namibia illegally, or assisting another person in illegally entering Namibia, for possessing falsified documents, or for being involved in illegal activity; (3) victims

⁵⁸ Prevention of Organised Crime Act, No. 29 of 2004, § 1, *available at* https://laws.parliament.na/cms_documents/prevention-of-organised-crime-3a3a391a4a.pdf (last visited July 31, 2017) [hereinafter POCA].

⁵⁹ *Id.* at § 1.

⁶⁰ *Id.* at §§ 15-16.

⁶¹ Child Care and Protection Act, No. 3 of 2015, § 200, *available at* <http://www.lac.org.na/laws/2015/5744.pdf> (last visited July 31, 2017) [hereinafter CCPA].

⁶² *Id.*

⁶³ *See id.* at § 203.

⁶⁴ *Id.* at § 202(a).

must be informed of their rights; (4) the government must arrange for medical and psychological services for victims; (5) the government must assist victims in finding employment; and (6) the government must provide legal assistance in helping the child apply for asylum.

The CCPA does not address registration of child trafficking victims and does not create reintegration programs.⁶⁵

Uganda

The Constitution of Uganda prohibits slavery and servitude,⁶⁶ and states that children under 16 years of age are entitled to be protected from social and economic exploitation.⁶⁷

The cornerstone of Uganda’s national anti-TIP legal framework is the Prevention of Trafficking in Persons Act (“PTIP Act”). The law establishes offenses of trafficking, aggravated trafficking, inchoate trafficking offenses (including attempt and conspiracy), as well as other trafficking-related offenses—including, for example, hiding another individual’s passport.

The PTIP Act defines “trafficking” as the recruitment, transport, transfer, hire, confinement, keeping, or receiving another person for the purposes of exploitation,⁶⁸ and provides for a penalty of 15 years’ imprisonment.⁶⁹ “Exploitation” is defined as sexual abuse, forced marriages, child marriages, forced labor, harmful child labor, use of children in armed conflict, use of people in illegal activities, debt bondage, slavery, human sacrifice, removal of organs and sex tourism.⁷⁰

Unlawful trafficking may be accomplished by threat, force, coercion, abduction, abuse of power.⁷¹ However, these are not required elements, and it is not a defense to the crime to allege that it did not involve these elements.⁷² Where a child is involved, neither the alleged consent of the child nor the alleged consent of the child’s guardians is a defense.⁷³

Trafficking may be elevated to an aggravated offense if it involves: (1) a child; (2) adoption or fostering orders obtained for purposes of exploitation; (3) large-scale trafficking; (4) an organization involved with child protection; (5) the ringleader of an organized trafficking operation; (6) trafficking by a relative of a child; (7) the offender is a public officer; (8) the offender is military or law enforcement; (9) the trafficking offence is for the purpose of engaging in harmful rituals, human sacrifice or removal of organs or tissue; or (10) a victim who dies, becomes “of unsound mind,” is mutilated, or is infected by HIV/AIDS or another life-threatening illness.⁷⁴ A

⁶⁵ *Id.* at §§ 213, 224.

⁶⁶ UGANDA CONST., art. 25, *available at* https://www.constituteproject.org/constitution/Uganda_2005.pdf?lang=en Constitution (last visited July 19, 2017) [hereinafter UGANDA CONST.].

⁶⁷ *Id.* at arts. 34(4)–(5).

⁶⁸ The Prevention of Trafficking in Persons Act of 2009, § 3, *available at* <https://www.ulii.org/ug/legislation/act/2015/7> (last visited July 19, 2017) [hereinafter PTIP Act].

⁶⁹ *Id.* at § 3(1).

⁷⁰ *Id.* at § 2.

⁷¹ *Id.* at § 2.

⁷² *Id.* at § 3–4.

⁷³ *Id.*

⁷⁴ *Id.* at § 4.

conviction for aggravated trafficking carries a sentence of life imprisonment.⁷⁵

The PTIP Act additionally criminalizes the “promotion” of trafficking, which may include knowingly renting out a building to be used for purposes of exploitation, producing information or forging immigration documents to be used for purposes involving trafficking, publishing (including via the Internet) pornographic materials related to trafficking, or recruiting persons in connection with trafficking.⁷⁶ Promotion of trafficking is punished on the first offense with a fine or five years in prison; second or subsequent offenses carry a seven-year prison sentence without the option of paying a fine.⁷⁷

The Act makes it a crime to attempt to traffic in persons.⁷⁸ It also criminalizes (among other things) conspiracy to traffic in persons, hiding another person’s passport, and recruiting a person below the age of 16 to any form of employment involving exploitation.⁷⁹

Finally, the PTIP Act imposes an affirmative obligation to report trafficking if one has knowledge that it is occurring or being planned. Failure to report known trafficking operations or plans can be punished by a fine or six months’ imprisonment.⁸⁰

Uganda’s criminal laws otherwise prohibit the commercial sexual exploitation of children and the use of children in illicit activities; however, these laws are not gender-neutral. The Penal Code criminalizes the sexual assault of a girl, or to procure or attempt to procure a girl or woman for sexual purposes, but it does not provide the same protections for boys.⁸¹ In 2016, new legislation was proposed that would protect both boys and girls equally, but it appears that the Parliament has not acted on it.⁸² In 2014, Uganda passed the Anti-Pornography Act, which prohibits child pornography.⁸³

The Penal Code additionally prohibits kidnapping or abduction,⁸⁴ wrongful confinement,⁸⁵

⁷⁵ *Id.*

⁷⁶ *Id.* at § 7.

⁷⁷ *Id.*

⁷⁸ *Id.* at § 8.

⁷⁹ *Id.*

⁸⁰ *Id.* at § 10.

⁸¹ Uganda Penal Code Act of 1950, §§ 128-32, *available at* http://www.wipo.int/wipolex/en/text.jsp?file_id=170005 (last visited July 19, 2017) (prohibiting “indecent assault” on girls under 14, “defilement” of girls under 18, procuring or attempting to procure a woman under 21 for sexual intercourse).

⁸² *See* The Sexual Offences Bill of 2015, *available at* <http://parliamentwatch.ug/wp-content/uploads/2016/10/L-14-04-16-The-Sexual-Offences-Bill-2015.-1.pdf> (not enacted) (last visited July 19, 2017); *see also* Winnie Watera, *Marital rape controversy: Prejudices hinder progress on a law that could improve the lives of women*, YOUNG LEADERS THINK TANK FOR POLICY ALTERNATIVES (Jan. 30, 2017), <https://www.youth4policy.org/single-post/2017/01/30/Marital-rape-controversy-Prejudices-hinder-progress-on-a-law-that-could-improve-the-lives-of-women> (last visited July 19, 2017).

⁸³ Anti-Pornography Act of 2014, § 14, *available at* <http://www.ug-cert.ug/files/downloads/The-Anti-pornography-act-2014> (last visited July 19, 2017).

⁸⁴ Penal Code Act, *supra* note 81, at §§ 239–45.

⁸⁵ *Id.* at § 248.

slavery,⁸⁶ and unlawful compulsory labor.⁸⁷

The Children’s Act of 2000 prohibits the employment of children “in any activity that may be harmful to his or her health, education or mental, physical or moral development.”⁸⁸

Zambia

Trafficking in persons is prohibited by the Constitution of Zambia.⁸⁹

In terms of domestic statutory authority, Zambia’s primary anti-TIP legislation is the Anti-Human Trafficking Act (AHTA), which effectively incorporates into domestic law the terms of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁹⁰ The TIP Act provides for the prohibition, prevention, and prosecution of human trafficking, establishes a Committee on Human Trafficking, and provides for its powers and functions; furthermore, it establishes centers for the victims of trafficking, and creates a Human Trafficking Fund which is financed through voluntary contributions, parliamentary appropriations, and grants from both national and international sources.⁹¹ The TIP Act also creates a Human Trafficking Fund.

The AHTA defines human trafficking as the recruitment, transport, transfer, harbouring, receipt, or obtaining of a person for the purposes of exploitation, within or across Zambia’s territorial boundaries, by means of threat or use of force or other forms of corruption, abduction, fraud or deception, false or illegal adoption of a child, fraud relating to travel documents, abuse of the law, or the giving or receipt of payments to obtain the victim’s consent.⁹² The penalties for trafficking range from 20 to 35 years generally, with aggravated offenses providing punishments ranging from a top end of 35 years to life imprisonment.⁹³

The AHTA additionally prohibits acts similar to slavery, including debt bondage, serfdom, practices relating to the forced marriage of women, and practices relating to the delivery of children away from their natural parents or guardians.⁹⁴

In imposing a “threat, force, or coercion” requirement upon the crime of trafficking of children, this definition of trafficking is not considered to be consistent with international law.⁹⁵

⁸⁶ *Id.* at §§ 245, 249–51.

⁸⁷ *Id.* at § 252.

⁸⁸ The Children Act of 1997, § 8, *available at*

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/75311/100641/F535098928/UGA75311.pdf> (last visited July 19, 2017); *see also infra* Part IX (discussing labor laws).

⁸⁹ Zambia Constitution of 1991, arts. 11, 24, *available at*

https://www.constituteproject.org/constitution/Zambia_2009.pdf?lang=en (last visited Aug. 5, 2017) [hereinafter ZAMBIA CONST.].

⁹⁰ The Anti-Human Trafficking Act, No. 11 of 2008, *available at*

<http://ilo.org/dyn/natlex/docs/MONOGRAPH/79940/86184/F202769530/ZMB79940.pdf> (last visited Aug. 5, 2017) [hereinafter AHTA].

⁹¹ *Id.* at art. 102.

⁹² *Id.* at art. 2.

⁹³ *Id.* at art. 3.

⁹⁴ *Id.* at art. 2.

⁹⁵ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 401.

Zambia's Penal Code additionally prohibits a number of acts related to TIP, including abduction, kidnapping with intent to subject an individual to slavery, the purchase or disposal of a person for slavery, the dealing in slavery, and unlawful compulsory labor.⁹⁶

Domestic Policies and Action Plans

Eritrea

Eritrea lacks national anti-TIP policies or action plans.

Ethiopia

The government of Ethiopia has instituted a National Action Plan for Reducing, Managing and Controlling Human Trafficking (September 2014 - August 2017).⁹⁷ Other reports indicate that this Action Plan is intended to prioritize: (1) prevention and awareness-raising with respect to the risks of illegal migration; (2) the development of government procedures to address trafficking; (3) the provision of direct support for Ethiopian TIP victims who are repatriated, and non-citizen survivors of TIP in Ethiopia; (4) the improvement of legal measures that help to prosecute traffickers and provide victim assistance; (5) capacity building for government officials; and (6) TIP-related data management.⁹⁸ However, ABA ROLI has not been able to obtain a publicly-available copy of this Action Plan for more detailed review.

The United Nations High Commissioner for Refugees (UNHCR) has, in conjunction with the government, developed a National Strategy to Address Trafficking and Smuggling of Refugees and Asylum-Seekers in Ethiopia (UNHCR National Strategy).⁹⁹ The UNHCR National Strategy lays out seven key goals, which include:

- Improving the collection and analysis of data regarding the movement of refugees and asylum-seekers and refugees in Ethiopia, and improving UNHCR record-keeping with respect to TIP victims who are also refugees or asylum-seekers;¹⁰⁰
- Improving accountability mechanisms by providing law enforcement support for trafficking responses, and establishing referral mechanisms with regional UNHCR offices;¹⁰¹
- Mitigating the TIP risks faced by refugees and asylum-seekers, by improving access to livelihood programs and educational opportunities for at-risk youth and TIP survivors;¹⁰²
- Promoting awareness-raising schemes regarding the risks associated with illegal or informal migration and smuggling;¹⁰³
- Increasing the provision of direct assistance to TIP victims;¹⁰⁴

⁹⁶ See, e.g., The Penal Code Act, No. 42 of 1930 (*as amended* 2005), arts. 251-63, *available at* <http://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> (last visited Aug. 5, 2017).

⁹⁷ UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, UNHCR NATIONAL STRATEGY TO ADDRESS TRAFFICKING AND SMUGGLING OF REFUGEES AND ASYLUM-SEEKERS IN ETHIOPIA 3 (Dec. 2014), *available at* http://www.regionalmms.org/policy/UNHCR_Ethiopia_Trafficking_Strategy.pdf (last visited July 21, 2017).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 6.

¹⁰¹ *Id.* at 7.

¹⁰² *Id.* at 8.

¹⁰³ *Id.* at 9.

¹⁰⁴ *Id.*

- Providing technical support, training, and education for immigration and security personnel, judges, prosecutors, and lawyers on the subject of TIP and migrant smuggling;¹⁰⁵ and
- Enhancing local, national, and regional-level cooperation in East Africa with respect to issues relating to informal, illegal, and mixed migration.¹⁰⁶

Ghana

The government of Ghana has successfully drafted a National Plan of Action for the Elimination of Human Trafficking in Ghana; however, as of the writing of the U.S. Department of State's 2016 Trafficking in Persons report, it had not been finalized or adopted.¹⁰⁷

The Migration Policy of Ghana includes a discussion of human trafficking as a form of irregular migration, and notes that TIP is of concern to the government.¹⁰⁸ Strategies to address human trafficking in the Policy include preventing irregular migration (such as human trafficking and smuggling), increasing awareness of the risks of irregular migration, providing victim services, promoting regional and international policy dialogue on the topic, and establishing a national human trafficking database.¹⁰⁹ ABA ROLI was unable to confirm the extent to which these strategies have been implemented.

Lesotho

According to the U.S. State Department, Lesotho launched a National Anti-Trafficking in Person Strategic Framework and Action Plan in July 2014.¹¹⁰ However, ABA ROLI has been unable to locate a freely-available copy of this document online for review.

Malawi

Malawi has not yet implemented any domestic policies or action plans that universally address TIP. However, a number of other action plans may call for the implementation of measures that could be used to suppress TIP.

For instance, the National Plan of Action to Combat Gender-Based Violence in Malawi (2014-2020) specifically notes the dangers associated with child marriage,¹¹¹ which has been implicated in the trafficking of children.¹¹² The UN Development Assistance Framework (2012-2016) calls for a

¹⁰⁵ *Id.* at 10.

¹⁰⁶ *Id.* at 11.

¹⁰⁷ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 183.

¹⁰⁸ GHANA MINISTRY OF THE INTERIOR, NATIONAL MIGRATION POLICY FOR GHANA (Apr. 2016), § 4.2, *available at* <http://migratingoutofpoverty.dfid.gov.uk/files/file.php?name=national-migration-policy-for-ghana.pdf&site=354> (last visited July 17, 2017).

¹⁰⁹ *See generally id.*

¹¹⁰ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 222 (July 2015), *available at* <https://www.state.gov/documents/organization/245365.pdf> (last visited Aug. 2, 2017).

¹¹¹ Ministry of Gender, Children, Disability and Social Welfare, National Plan of Action to Combat Gender-Based Violence in Malawi 2014-2020 22 (July 2014), *available at* <http://www.togetherforgirls.org/wp-content/uploads/National-Plan-of-Action-to-Combat-Gender-Based-Violence-in-Malawi-2014-2020.pdf> (last visited July 23, 2017).

¹¹² U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 254.

number of initiatives that could help to combat TIP and TIP-related practices, including the establishment of vocational training programs and a labor market information system to help collect and analyze labor data,¹¹³ and the improvement of legal and regulatory frameworks to combat gender-based violence.¹¹⁴ While neither of these action plans specifically mention TIP or migrant smuggling, a number of other policies and action plans specifically target the usage of child labor.¹¹⁵

Namibia

Namibia's technical committee to combat human trafficking has reportedly drafted a new National Action Plan to combat TIP; however, ABA ROLI has not identified a publicly-available copy of this document for review.

Aside from this, a number of policies and action plans exist to combat TIP in various forms. For example, the National Plan of Action on Gender-Based Violence (2012-2016) addresses child marriage, forced marriage, domestic violence, and trafficking in persons;¹¹⁶ the National Development Plan IV addresses child protection and concerns related to TIP; and the Decent Work Country Program includes provisions on elimination of forced labor and child labor.¹¹⁷

Both the POCA 2004 and the CCPB also cover ancillary offenses such as aiding, abetting, or attempts to TIP.¹¹⁸ Neither law addresses inter-agency, multi-sectoral, regional, or international cooperation to address TIP.

ABA ROLI researchers did not identify any measures aimed at preventing TIP in the supply chain.

Uganda

The government of Uganda began to draft a National Action Plan to combat human trafficking in early 2012,¹¹⁹ and as of the writing of the 2016 TIP Report, had successfully launched it.¹²⁰ However, the U.S. State Department notes that insufficient funds were allocated for the Plan to be fully implemented.¹²¹ ABA ROLI has not been able to locate a publicly-available draft of the National Action Plan for review.

¹¹³ United Nations Development Assistance Framework (UNDAF) Action Plan 2012-2016: Malawi, § 1.2.4, available at <http://www.mw.one.un.org/wp-content/uploads/2014/04/UNDAF-Action-Plan-2012-2016.pdf> (last visited July 23, 2017).

¹¹⁴ *Id.* at § 2.5.1.

¹¹⁵ See *Child Labor and Forced Labor Reports: Malawi*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/malawi> (last visited July 23, 2017).

¹¹⁶ MINISTRY OF GENDER EQUALITY AND CHILD WELFARE, NATIONAL PLAN OF ACTION ON GENDER-BASED VIOLENCE 2012-2016 §§ 2.1, 2.3 (2011), available at http://www.na.undp.org/content/dam/namibia/docs/womenempowerment/undp_na_womenempowernt_National%20Plan%20of%20Action%20on%20GBV.pdf (last visited July 31, 2017) [hereinafter MGECW, GBV ACTION PLAN].

¹¹⁷ *Child Labor and Forced Labor Reports: Namibia*, U.S. DEP'T OF LAB., BUREAU OF INT'L LAB. AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/namibia> (last visited July 31, 2017).

¹¹⁸ POCA, *supra* note 58, at § 15; CCPA, *supra* note 61, at Schedule 4 .

¹¹⁹ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2013, available at <https://www.state.gov/j/tip/rls/tiprpt/countries/2013/215641.htm> (last visited July 19, 2017).

¹²⁰ U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 378.

¹²¹ *Id.*

Uganda has drafted and begun to implement a National Action Plan for the Elimination of the Worst Forms of Child Labor.¹²² The Plan aims to reduce the incidences of the worst forms of child labor by 2017, in part by attaining the following goals: (i) to increase enrolment in and completion of primary education; (ii) to increase access to social protection and assistance services for families affected by and at risk of suffering from the worst forms of child labor; (iii) to conduct awareness-raising campaigns; (iv) to strengthen legal, policy, and institutional frameworks in a manner that prevents children from falling into the worst forms of child labor; (v) to provide rehabilitation and integration services for victims; and (vi) to build the capacity of government, employers, and labor unions to handle the problem.¹²³

Zambia

Zambia had a national action plan to prevent human trafficking between 2012 and 2015; however, as of the end of the reporting period for the U.S. Department of State’s 2016 Trafficking in Persons Report, the country had not reviewed or updated this document.¹²⁴ ABA ROLI has not located a publicly-available copy of this document online to review its terms.

Zambia’s Minimum Standard Guidelines on Protection of Victims of Trafficking outline minimum requirements for victim care to include establishment and upgrade of existing shelters.¹²⁵ While the government made vigorous efforts to increase the availability of shelter options in previous years, government agencies and NGOs reported a lack of resources to establish or upgrade additional shelters.¹²⁶

Zambia does have a number of other policies and action plans in place which may cover aspects of or implicate TIP. For example, the National Child Labor Policy designates agencies to address child labor issues, and the National Action Plan for the Elimination of the Worst Forms of Child Labor prioritizes the improvement of child labor laws, protecting children from hazardous labor, strengthening institutional capacity to combat child labor, raising awareness on the issue, and establishing monitoring and evaluation systems.¹²⁷

International Agreements

	Eritrea	Ethiopia	Ghana	Lesotho	Malawi	Namibia	Uganda	Zambia
UNTOC ¹²⁸	X	X	X	X	X	X	X	X

¹²² MINISTRY OF GENDER, LABOUR, AND SOCIAL DEVELOPMENT, NATIONAL ACTION PLAN ON ELIMINATION OF THE WORST FORMS OF CHILD LABOR IN UGANDA: 2012/13 – 2016-17, *available at* https://www.unicef.org/uganda/NAP_Uganda_June_2012.pdf (last visited July 19, 2017).

¹²³ *Id.* at 4.2.

¹²⁴ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 402.

¹²⁵ U.N JOINT PROGRAMME ON HUMAN TRAFFICKING ZAMBIA, MINIMUM STANDARD GUIDELINES ON PROTECTION OF VICTIMS OF HUMAN TRAFFICKING (Oct. 2012), *available at* <https://www.iom.int/files/live/sites/iom/files/Country/docs/Minimum-Standard-Guidelines.pdf> (last visited Aug. 5, 2017).

¹²⁶ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 401.

¹²⁷ *See Child Labor and Forced Labor Reports: Zambia*, U.S. DEP’T OF LAB., BUREAU OF INT’L LAB. AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/zambia> (last visited Aug. 5, 2017).

¹²⁸ United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 40 I.L.M. 335.

UNTOC TIP Protocol ¹²⁹	X	X		X	X	X	X	X
UNTOC Migrant Smuggling Protocol ¹³⁰		X		X				X
ICMW ¹³¹		X	X		X		X	
CRC ¹³²	X	X	X	X	X	X	X	X
CRC (Armed Conflict) ¹³³	X		X	X	X		X	
CRC (Child Pornography) ¹³⁴	X	X		X	X	X		X
ILO Convention No 29 ¹³⁵	X	X	X	x	X	X	X	X
ILO Convention no 105 ¹³⁶	X	X		X	X	X	X	X
ILO Convention no 138 ¹³⁷	X	X	X	X	X	X	X	X
ILO Convention no 182 ¹³⁸		X	X	X	X	X	X	X

III. Anti-TIP Institutional Framework

Eritrea

Eritrea lacks a national anti-TIP institutional or monitoring framework. The Eritrean police and National Security Administration have a mandate to investigate crimes, including trafficking, to the extent it is addressed by Eritrean law.

Ethiopia

Although Ethiopia has a national anti-trafficking task force that was convened by the country's Ministry of Labour and Social Affairs,¹³⁹ it lacks dedicated TIP courts, TIP investigative units, or TIP

¹²⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2237 U.N.T.S. 319.

¹³⁰ Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the United Nations Convention against Transnational Organized Crime, Nov. 15, 2000, 2241 U.N.T.S. 507.

¹³¹ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, July 1, 2003, 2220 U.N.T.S. 3.

¹³² United Nations Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

¹³³ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, May 25, 2000, 2173 U.N.T.S. 222.

¹³⁴ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, May 25, 2000, 2171 U.N.T.S. 227.

¹³⁵ International Labor Organization [ILO] Convention No. 29 (concerning Forced or Compulsory Labor) (June 28, 1930).

¹³⁶ ILO Convention No. 105 (concerning the Abolition of Forced Labor) (June 25, 1957).

¹³⁷ ILO Convention No. 138 (concerning Minimum Age for Admission to Employment) (June 26, 1973).

¹³⁸ ILO Convention No. 182 (concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour) (Jun 17, 1999).

¹³⁹ *National Anti-Trafficking and Smuggling Taskforce steps up Coordination Efforts in Managing Migration in* ABA Rule of Law Initiative

prosecutorial units.

Ethiopia's Ministry of Labour, Regional Ministry of Education, Ministry of Foreign Affairs, Regional Ministry of Health, Regional Ministry of Justice, and Ministry of Women and Children Affairs all have mandates that permit them to intervene to some degree in TIP and migrant smuggling-related matters; however, most of these lack a mandate to detect, investigate, prosecute, or adjudicate trafficking cases. However, the Regional Ministry of Justice has an indirect mandate to investigate trafficking-related crimes.¹⁴⁰ The Ministry of Labour and Ministry of Foreign Affairs each have mandates that allow them to assist trafficking victims and the law compels each to cooperate with other actors to address trafficking issues.

The Federal and Regional Micro and Small Enterprise Development Agencies, National Security and Intelligence Service, Federal Police Commission, and the Charities and Societies Agency have mandates to help prevent human trafficking, although only the Federal Police Commission may engage in the detection, investigation, prosecution, and/or adjudication of TIP cases.¹⁴¹

The TIP Proclamation seeks to protect the privacy and identity of TIP victims, and furthermore ensures that—at least in terms of the law as it is written—victims are not criminalized, punished, or otherwise held liable for offenses under Ethiopian law.¹⁴²

Ghana

The HTA establishes a national anti-TIP coordinating body known as the Human Trafficking Management Board (HTMB). The HTMB is chaired by the Minister for Gender, Children and Social Protection (MGCSP), and is otherwise comprised of representatives of each of the following institutions: (i) the Attorney General; (ii) the Ministry of Local Government; (iii) the Ministry of Interior; (iv) the Ministry of Health; (v) the Ministry of Education; (vi) the Ghana Journalists Association; (vii) the Police Service; (viii) the Immigration Service; (ix) the Customs, Excise and Preventive Service; (x) the Office of the National Security Coordinator; and (xi) the Labor Department. The HTMB also includes the Director of Social Welfare, a representative of the private sector (to be nominated by the MGCSP), and three other persons—one of whom must be a woman.¹⁴³

HTMB's responsibilities include: (i) making recommendations for a National Action Plan against trafficking in persons, and monitoring and reporting on the progress of that plan to the Economic Community of West African States; (ii) assisting the investigation and prosecution of cases, and strategizing to prevent and combat trafficking in persons; (iii) working with other agencies and organizations to promote victim rehabilitation and reintegration; and (iv) conducting research on international and regional developments on TIP.¹⁴⁴

The HTMB also is tasked with preparing guidelines for disbursements from the Human Trafficking

Ethiopia, INT'L ORG. FOR MIGRATION, SPECIAL LIAISON OFFICE IN ADDIS ABABA, ETHIOPIA (Apr. 6, 2016), <https://ethiopia.iom.int/national-anti-trafficking-and-smuggling-taskforce-steps-coordination-efforts-managing-migration> (last visited July 21, 2017).

¹⁴⁰ Proclamation No. 909/2015 (Ethiopia), *supra* note 13, at § 18(2).

¹⁴¹ *Id.* at § 43.

¹⁴² *Id.* at §§ 29-30.

¹⁴³ HTA, *supra* note 19, at § 29.

¹⁴⁴ *Id.* at § 30.

Fund (HTF).¹⁴⁵ The HTF is funded through grants, voluntary donations, Parliamentary appropriations, and “proceeds from the confiscation of property connected with trafficking.”¹⁴⁶ Disbursements from the fund are to be applied towards victim support, rehabilitation, and reintegration, and towards capacity building for the same.¹⁴⁷

Though the HTMB was dissolved in 2014 due to a lack of funding,¹⁴⁸ it has been re-established and was able to conduct three meetings during the 2017 reporting period.¹⁴⁹ However, although the government of Ghana has been reviewing the National Action Plan since at least 2015,¹⁵⁰ as of the writing of the US State Department’s 2017 Trafficking in Persons report it had not been finalized.¹⁵¹

The government has failed to sufficiently fund the HTMB’s efforts “to conduct monitoring and evaluation, data collection, and research relating to trafficking.”¹⁵² It also has not provided funding to the HTF under s. 21(b) of the HTA for a fifth consecutive year.¹⁵³

Ghana does not appear to have courts and prosecutorial units specifically designed to combat trafficking, though units of the Ghana Police Service (GPS) and the Ghana Immigration Service (GIS) work to combat TIP.

The Ghana Police Service’s Anti-Human Trafficking Unit (AHTU) was established in 2008, and has an express mandate to: (i) proactively prevent TIP; (ii) investigate, arrest and prosecute trafficking offenses; (iii) work to protect victims’ identities, (iii) assist victims in obtaining necessary care (e.g., physical and psychological treatment); (iv) inform victims of their rights and any material support that they may be able to obtain, including options for socio-economic recovery; and (v) and cooperate with other bodies to combat TIP.¹⁵⁴ The HTA additionally provides that police officers who fail to respond to victim assistance requests must undergo disciplinary procedures.¹⁵⁵

Though the GIS lacks a specific mandate to prevent trafficking, assist victims, cooperate with other institutions to combat trafficking, or require employees to undergo anti-TIP training, its Border Patrol Unit collaborates with other security agencies at the borders to check for drug trafficking, human trafficking and smuggling.¹⁵⁶ While the HTA does not immunize trafficking victims from prosecution, victims who are illegal immigrants may be permitted to stay in Ghana after the completion of a TIP investigation with the approval of the Minister of Interior.¹⁵⁷

The principal institution that deals with organized, transnational and financial crimes is the

¹⁴⁵ *Id.* at § 20.

¹⁴⁶ *Id.* at § 21.

¹⁴⁷ *See id.* at § 22.

¹⁴⁸ DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2014 187, *available at* <https://www.state.gov/documents/organization/226846.pdf> (last visited July 17, 2017).

¹⁴⁹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 181.

¹⁵⁰ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2015 169, *available at* <https://www.state.gov/j/tip/rls/tiprpt/countries/2015/243444.htm> (last visited July 17, 2017).

¹⁵¹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 181.

¹⁵² *Id.* at 182.

¹⁵³ *Id.*

¹⁵⁴ HTA, *supra* note 19, § 11.

¹⁵⁵ *Id.* at § 10 (2).

¹⁵⁶ *Introduction*, GHANA IMMIGRATION SERVICE, www.ghanaimmigration.org/bpu.html (last visited July 17, 2017).

¹⁵⁷ HTA, *supra* note 19, § 34.

Economic and Organized Crime Office (EOCO).¹⁵⁸ The EOCO has jurisdiction to investigate and, on the authority of the Attorney General, prosecute serious offenses that involve financial or economic loss to the country; these include TIP and money laundering, among other offenses.¹⁵⁹ The Financial Intelligence Center, established to combat money laundering and terrorist financing, also has the authority to deal with crimes that could be by-products of or relate to TIP.¹⁶⁰

Lesotho

Lesotho appears to have a limited Anti-TIP institutional framework.

For example, there is a National Task Team that has been charged with implementing Lesotho's National Action Plan on the Elimination of Child Labor.¹⁶¹ This Task Team is led by the Ministry of Labor and Employment's Child Labor Unit, and has representatives from other government ministries, trade unions, NGOs, and international organizations.¹⁶²

There is also a Multi-Sectoral Committee on Combating Trafficking in Persons, which is chaired by the Commissioner of Refugees and includes members from other government ministries, local government, and the NGO, faith-based, and international community.¹⁶³ However, the mandate of this committee is unclear.

Malawi

The primary body charged with implementing the TIP Act is the National Coordinating Committee Against Trafficking in Persons (the Committee). As noted above, the Committee generally oversees the implementation of the TIP Act, by coordinating and overseeing TIP investigations, ensuring the protection and safety of victims, and formulating policies and preventive strategies.¹⁶⁴

The Committee is additionally charged with managing and disbursing amounts from the Anti-Trafficking Fund, which is funded by Parliamentary appropriations, grants and donations, proceeds from the confiscation, seizure, or sale of TIP-related property following TIP convictions, and any other amounts from sources approved by the Minister for Home Affairs and the Minister for Finance.¹⁶⁵

It is not clear that the government provided Parliamentary appropriations to the Anti-Trafficking Fund during the reporting period for the U.S. Department of State's 2016 Trafficking in Persons

¹⁵⁸ See Economic and Organized Crime Office Act 804 of 2010, available at https://www.unodc.org/res/cld/document/gha/2008/economic-and-organized-crime-act_html/Economic_and_Organized_Crime_Act_804.pdf (last visited July 17, 2017).

¹⁵⁹ *Id.* at § 3.

¹⁶⁰ Anti-Money Laundering Act 749 of 2008 § 4, available at <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/92293/107406/F-308019291/GHA92293.pdf> (last visited July 17, 2017).

¹⁶¹ *Child Labor and Forced Labor Reports: Lesotho*, U.S. DEP'T OF LAB., BUREAU OF INT'L LAB. AFF., <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/lesotho> (last visited Aug. 2, 2017).

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ TIP Act, *supra* note 47, at art. 8.

¹⁶⁵ *Id.* at art. 51.

Report; however, the report does note that owing to “severe resource constraints, the government relied largely on NGOs to . . . provide long-term care and did not provide in-kind or financial support for most NGO services.”¹⁶⁶

The MPS and the immigration service are both authorized under the TIP Act as agencies responsible for TIP investigations.¹⁶⁷ The MPS in particular has anti-TIP curricula in a number of its training schools.¹⁶⁸

Namibia

Namibia has several institutions dedicated to gender-based violence and to the wellbeing of children. The Ministry of Gender Equality and Child Welfare (MGECW) is responsible for implementing Namibia’s National Plan of Action on Gender-Based Violence.¹⁶⁹ In 2009, MGECW and other stakeholders launched a national media campaign on Zero Tolerance for Gender-Based Violence, which included materials that encouraged the reporting of human trafficking.¹⁷⁰ MGECW has also conducted trainings for police and government officials to help combat gender-based violence, and has developed standard operating procedures for shelters, though the government only has six operational shelters in Namibia’s 14 regions.¹⁷¹

The U.S. Department of State’s 2016 TIP Report notes that in partnership with an international donor, the Namibian government created a multi-sector steering committee and signed a memorandum of understanding in preparation for a project to strengthen inter-ministerial coordination to respond to trafficking cases and to launch a public awareness campaign to inform Namibians about trafficking.¹⁷² In April 2016, the government and International Organization for Migration launched a three-year initiative to combat TIP. The project is funded by the United States Department of State;¹⁷³ ABA ROLI has been unable to confirm whether these projects are identical.

ABA ROLI was unable to identify a national TIP monitoring framework.

Uganda

The PTIP Act directs that the Minister of Internal Affairs shall designate a Prevention of Trafficking in Persons Office, responsible for “coordinat[ing], monitoring and overseeing the implementation” of the Act.¹⁷⁴ This office is known as the Coordination Office to Combat Trafficking in Persons (“COCTIP”).¹⁷⁵ Pursuant to the Act, COCTIP is charged with:

¹⁶⁶ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 254.

¹⁶⁷ TIP Act, *supra* note 47, at art. 26.

¹⁶⁸ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 254.

¹⁶⁹ MGECW, GBV ACTION PLAN, *supra* note 116.

¹⁷⁰ *Id.*

¹⁷¹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 280.

¹⁷² *Id.* at 281.

¹⁷³ IOM, *Namibia Launch Initiative to Combat Human Trafficking*, INTERNATIONAL ORGANIZATION FOR MIGRATION, (Apr. 12, 2016), <https://www.iom.int/news/iom-namibia-launch-initiative-combat-human-trafficking> (last visited July 31, 2017).

¹⁷⁴ PTIP Act, *supra* note 68, at § 21.

¹⁷⁵ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 379; see also BAGUMA BENDA, CHALLENGES AND DILEMMAS ENCOUNTERED BY THE NATIONAL RAPORTEURS ON TRAFFICKING IN PERSONS AND EQUIVALENT MECHANISMS IN THE COURSE OF THEIR WORK, THE UGANDA EXPERIENCE 1–2 (Bangkok, Thailand, May 21, 2014),

- Formulating a comprehensive and integrated program to prevent and suppress trafficking;
- Preparing an annual National Action Plan on Prohibition of Trafficking in Persons, taking into account activities on prevention, prosecution, and protection;
- Developing measures and policies to protect, assist and support victims of trafficking, taking particular consideration of age, gender and victims' special needs;
- Establishing a data bank on trafficking cases, and conducting research on trafficking patterns and schemes in order to support policy formulation;
- Consulting and coordinating with government and non-governmental organizations to advance the objectives of the Act;
- Training government officials, law enforcement, and the public on the dangers of trafficking and the protections available for victims;
- Proposing rules and regulations to implement the Act; and
- Conducting other activities necessary to carry out the functions designated under the Act.¹⁷⁶

As part of a United Nations (U.N.) consultative meeting convened in 2014, a member of Uganda's National Anti-Trafficking Task Force submitted a report that addresses the "successes" and "challenges" of Uganda's anti-trafficking initiative.¹⁷⁷ The report explains that COCTIP is composed of "an Inter-Ministerial Task Force, with membership from 15 Ministries, Departments and Agencies . . . including representatives of the Coalition of Civil Societies against Trafficking in persons."¹⁷⁸ As of 2014, COCTIP had reportedly developed "a draft five years' [sic] National Action Plan (NAP) to combat TIP in Uganda;^[179] a Standard Operating Procedure (SOP) for stakeholder members; a National Awareness Strategy on prevention of TIP; [and] several joint training programs and [o]perations."¹⁸⁰

The challenges experienced by COCTIP, according to the 2014 report, have included slow implementation and limited resources.¹⁸¹ Representatives of the various ministries, departments, and agencies participating in COCTIP each have their own core functions, which may end up being prioritized over the goals and objectives of COCTIP.¹⁸² Other issues include a lack of "command and control" over ministry and department staff level employees participating in anti-TIP activities, as well as insufficient victim assistance. Further, the report notes an absence of official diplomatic arrangements with transit and destination countries; this ultimately impedes the exchange of information and compounds a general lack of public understanding about the trafficking

available at www.ohchr.org/Documents/Issues/Trafficking/Consultation/2014/6%20Uganda.doc (last visited July 19, 2017) [hereinafter BAGUMA REPORT].

¹⁷⁶ PTIP Act, *supra* note 68, at §§ 21(2)(a)–(h).

¹⁷⁷ BAGUMA REPORT, *supra* note 175.

¹⁷⁸ *Id.* at § 1.

¹⁷⁹ *Child Labor and Forced Labor Reports: Uganda*, U.S. DEP'T OF LABOR, BUREAU OF INT'L LABOR AFF., <https://www.dol.gov/agencies/ilab/explore-our-resources/reports/child-labor/uganda> (last visited July 19, 2017) [hereinafter *Child Labor and Forced Labor Reports: Uganda*].

¹⁸⁰ BAGUMA REPORT, *supra* note 175, at § 2. Researchers have been unable to locate online copies of the NAP, SOP or the National Awareness Strategy. However, in 2014, COCTIP published an "annual report" on trafficking in Uganda. See COORDINATION OFFICE TO COMBAT TRAFFICKING IN PERSONS (COCTIP), ANNUAL REPORT ON THE TREND OF TRAFFICKING IN PERSONS IN UGANDA: 2013 § 2 (2014), available at [http://www.upf.go.ug/download/publications\(2\)/tip_annual_report_final.pdf](http://www.upf.go.ug/download/publications(2)/tip_annual_report_final.pdf) (last visited July 19, 2017).

¹⁸¹ BAGUMA REPORT, *supra* note 175, at § 3.

¹⁸² *Id.*

problem.¹⁸³ The 2016 TIP Report notes that while “[t]he government allocated funding to COCTIP for the first time” in 2015,¹⁸⁴ staffing “remained low.”¹⁸⁵

The Counter Trafficking in Persons (CTIP) Task Force is an inter-ministerial group charged with coordinating anti-trafficking efforts among government ministries.¹⁸⁶

The Ministry of Internal Affairs (MIA) enforces criminal laws against forced labor, trafficking, commercial exploitation, and the use of children for illicit activities.¹⁸⁷ Within the MIA, the Uganda Police Force’s Special Investigation Unit manages trafficking cases, and the Sexual Offenses Department manages cases of commercial sexual exploitation. MIA’s Immigration Department assists in identifying potential trafficking victims.¹⁸⁸

The Ministry of Gender, Labor, and Social Development (MGLSD) carries a mandate to “empower communities to harness their potential through skills development, [l]abour productivity and cultural growth.”¹⁸⁹ The MGLSD is sometimes called the Ministry of Gender, but its role extends beyond gender issues. It is charged with enforcing labor laws throughout Uganda,¹⁹⁰ and includes a Social Development Sector “that promotes issues of social protection, gender equality, equity, human rights, culture, decent work conditions and empowerment for different groups such as women, children, the unemployed youth, internally displaced persons, the older persons and persons with disabilities.”¹⁹¹

The MGLSD plays a number of roles in Uganda’s anti-TIP program. It oversees labor recruitment agencies,¹⁹² reviews labor export regulations to address any loopholes used by such recruitment agencies,¹⁹³ and is involved in the provision of assistance to trafficking victims.¹⁹⁴ However, on all of these fronts, the U.S. State Department has characterized the MGLSD’s efforts as “inadequate.”¹⁹⁵ It notes that “[o]fficial complicity hinder[s] government oversight of labor recruitment agencies,”¹⁹⁶ and that “[l]imited funding . . . result[s] in restricted services”¹⁹⁷ to victims. Additionally, in spite of the MGLSD’s regulatory review, a number of existing—and apparently flawed—regulatory schemes remained in place. These include the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005 and the Guidelines on the Recruitment and Placement of Ugandan Migrant Workers Abroad, 2015.¹⁹⁸

¹⁸³ *Id.*

¹⁸⁴ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 379.

¹⁸⁵ *Id.* at 380.

¹⁸⁶ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 179.

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ MINISTRY OF GENDER LABOUR AND SOCIAL DEVELOPMENT, <http://www.gou.go.ug/ministry/ministry-gender-labour-and-social-development> (last visited July 19, 2017).

¹⁹⁰ *Child Labor and Forced Labor Reports: Uganda*, *supra* note 179.

¹⁹¹ *Id.*

¹⁹² U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 379.

¹⁹³ *Id.* at 380.

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 379.

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

Zambia

The AHTA establishes the Committee on Human Trafficking, which “coordinates the activities of all the relevant institution on matters connected with trafficking.”¹⁹⁹ However, Zambia does not have a national trafficking-in-persons monitoring and reporting mechanism.

ABA ROLI was unable to identify whether any other government institutions have specific mandates to address TIP.

The AHTA addresses inter-agency, multi-sectoral, regional, and/or international cooperation to address trafficking-in-persons. Specifically, the Attorney General may, at the request of a competent authority of a foreign state, disclose to that authority any information in the Attorney-General’s possession relating to any of the following: (a) the actions or movements of persons suspected of involvement in an offence under the Act; (b) the use of forged or falsified travel papers by persons involved in an offence under the Act; (c) the use of communications technologies by persons suspected of involvement in an offence under this Act; or (d) the commission of offences by any person against the Act. The Attorney General may only make such disclosures if the disclosure is not prohibited by any provision of law and will not be prejudicial to national security or to public safety.²⁰⁰

If a foreign state makes a request for assistance in the investigation or prosecution of an offence under the TIP Act, or for the tracking, attachment or forfeiture of property that is located in Zambia and has been used in the furtherance of an act which, if it had been committed in Zambia, would constitute an offence under the Act, the Attorney-General may execute the request, decline to execute the request, or delay its execution, and inform the foreign state making the request of the reasons therefor.²⁰¹

The President may, on such conditions as he or she may determine, enter into an agreement with a foreign state that is not a State Party to the Protocol in respect of any matter pertaining to TIP. The President may also enter into an agreement with a foreign state that is a state party to the Protocol in respect of any matter pertaining to trafficking in persons for the purposes of supplementing the provisions of the Protocol or to facilitate the application of the principles contained therein.²⁰²

According to the U.S. Department of State, all law enforcement courses at the police academy include training covering the AHTA, as well as investigation techniques and procedures to identify and protect TIP victims.²⁰³ The Zambian government uses a database to track trafficking case data.

¹⁹⁹ AHTA, *supra* note 90, at arts. 100-101.

²⁰⁰ *Id.* at arts. 91-94.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT: JUNE 2016, *supra* note 20, at 401.